

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201218006**
Release Date: 5/4/2012

Third Party Communication: None
Date of Communication: Not Applicable
Person To Contact:

Index Number: 9100.01-00, 42.00-00

, ID No.
Telephone Number:

Refer Reply To:
CC:PSI:B05
PLR-140976-11
Date:
January 26, 2012

In Re:

Taxpayer =

Building =

x =

y =

Dear :

This letter responds to Taxpayer's authorized representative's letter dated September 28, 2011, requesting an extension of time to make an election under § 42(f)(1) pursuant to § 301.9100-3 of the Procedure and Administration Regulations.

Taxpayer owns Building, a x-unit multifamily residential property. Taxpayer intended to begin the credit period as defined in § 42(f)(1) for Building in y, the taxable year that Building was placed in service. According to information submitted, Taxpayer inadvertently failed on its Form 8609 to make an effective election under § 42(f)(1) consistent with Taxpayer's intent, as evidenced by the Taxpayer's contemporaneous documentation, and its return filing consistent with this intent.

Section 42(f)(1) defines "credit period" to mean, with respect to any building, the period of 10 taxable years beginning with the taxable year in which the building is placed in service, or at the election of the taxpayer, the succeeding taxable year, but in either case only if the building is a qualified low-income building as of the close of the first year of such period. The election, once made, is irrevocable.

Section 301.9100-8(b) provides that the election under § 42(f)(1) generally must be made for the taxable year in which the building is placed in service, or the succeeding taxable year if the § 42(f)(1) election is made to defer the start of the credit period, and must be made in the certification required to be filed pursuant to § 42(l)(1) and (2). Section 301.9100-8(a)(4)(i) provides that the election under § 42(f)(1) is irrevocable.

Section 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election.

Section 301.9100-1(b) defines the term “regulatory election” as including an election whose due date is prescribed by a regulation, revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Under § 301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I.

Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Requests for relief under § 301.9100-3(a) will be granted when the taxpayer provides evidence (including affidavits described in § 301.9100-3(e)) to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government.

In the instant case, based solely on the facts submitted and the representations made, we conclude the requirements of §§ 301.9100-1 and 301.9100-3 have been met. Accordingly, Taxpayer is granted an extension of time to make the § 42(f)(1) election on Form 8609 to treat the credit period for Building as beginning in y. The election must be made by filing within 120 days from the date of this letter an amended Form 8609 that includes this intended election. The amended Form 8609 (along with a copy of this letter) is to be sent to the following address:

Department of the Treasury
Internal Revenue Service Center
Philadelphia, PA 19255-0549

A copy of this letter is enclosed for this purpose.

No opinion is expressed or implied regarding the application of any other provisions of the Code or regulations. Specifically, we express no opinion on whether Taxpayer otherwise qualifies for credit under § 42.

This ruling is directed only at the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file, a copy of this letter is being sent to Taxpayer's authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____
CHRISTOPHER J. WILSON
Senior Counsel, Branch 5
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2): Copy of this letter
 Copy for § 6110 purposes

cc: